

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

X

mCom IP, LLC

Plaintiff,

-against-

22 civ. 2046 (CM)

BACKBASE U.S.A. INC.,

Defendant.

X

ORDER GRANTING STAY OF PROCEEDINGS PENDING INTER PARTES REVIEW

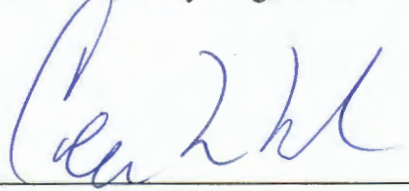
McMahon, J.:

The court has reviewed the request for a stay of this case pending inter partes review of the asserted patent and the plaintiff's opposition thereto. The motion for a stay is granted. The fact that a third party, not defendant in this case, petitioned for IPR, and that Backbase is not a party to the IPR, is utterly irrelevant to whether a stay is appropriate. So is the fact that the PTAB instituted IPR because it was "reasonably likely" that one claim would be invalidated (that is what the PTAB routinely does, and when one claim is reasonably likely to be invalidated it brings all challenged claims up for review).

The defendant is correct that a stay has the potential to simplify this case by reducing the number of claims that can be asserted against defendant (or perhaps mooted this case altogether). The PTAB will also address claim construction issues, which will greatly simplify matters for this court. We are at the beginning of the case, which counsels in favor of a stay. And a stay will not prejudice mCom, since it has not right to litigate alleged infringement of claims that are not invalid.

The parties are directed to report to the court as soon as the PTAB issues its decision, at which point we will schedule a conference and figure out what, if anything, is left of this case.

Dated: July 13, 2022



U.S.D.J.

BY ECF TO ALL COUNSEL

